

REMARKS

Claims 1, 5, 7 and 10 remain pending in the application. No claims are being amended in this Response. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the remarks contained herein.

EXAMINER'S RESPONSE TO PREVIOUS AMENDMENT

Applicant wishes to thank the Examiner, Mr. Evens J. Augustin, for the courtesies extended to Applicant's counsel, Mr. Garrett C. Donley, during the telephone conference of May 4, 2007 relating to this application. During that telephone conference, the Examiner and Applicant's counsel discussed and clarified the issue of the effective dates for both the present application and the cited Keil reference (U.S. Patent Appl. Publ. No. 2001/0023415 A1).

Specifically, the present Office Action cites MPEP 1896, Section II ("Effective Date As A Reference") as providing the basis for the claimed priority of the present application relative to the parent PCT application. However, as Applicant's counsel discussed with the Examiner during the telephone conference, while MPEP 1896, Section II concerns the effective date of a reference, it is believed that the effective date of the subject matter of the present application (based on the parent PCT and U.S. provisional applications) is instead governed by MPEP 706 (V)(D) ("Determining The Effective Filing Date Of The Application"), which reads:

"If the application properly claims benefit under 35 U.S.C. 119(e) to a provisional application, the effective filing date is the filing date of the provisional application for any claims which are fully supported under the first paragraph of 35 U.S.C. 112 by the provisional application."

In the present case, this application claimed benefit to PCT International Application No. PCT/US00/70487 (filed May 12, 2000), which in turn claimed the benefit of two U.S. provisional patent applications: U.S. provisional application No. 60/134,342 (filed May 14, 1999) and U.S. provisional application No. 60/159,665 (filed October 15, 1999). Accordingly, it is submitted that the subject matter of the present application properly dates back to the dates when each aspect of the subject matter first appeared in Applicant's present chain of filings.

REJECTION UNDER 35 U.S.C. § 112

Claim 10 stands rejected under 35 U.S.C. § 112, second paragraph, as failing to comply with the enablement requirement. Specifically, the Examiner states that claim 1 contains a serial number that is randomly generated, and that claim 10 states that the randomly generated serial number comprises the user's age, such that it is not randomly generated. Applicant respectfully submits that the addition of information about a customer's age to an otherwise randomly generated serial number does not make the underlying serial number any less random. Instead, it is submitted that the addition of this information to the serial number maintains confidentiality of the customer's identity, while providing a way to prevent access to a website or decline a purchase based on the user's age (as set forth at page 5, 2nd para. of the present specification). For this reason, it is respectfully requested that this objection be withdrawn.

REJECTION UNDER 35 U.S.C. § 102

Claims 1, 5, 7 and 10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Keil (U.S. Patent Appl. Publ. No. 2001/0023415 A1). The Examiner states that Keil discloses a system and method for establishing a globally accessible debit account via a point of sale (POS) terminal, and has summarized the key components of the Keil disclosure for the purchase of online goods or services.

However, upon review of the history of the present application and the history of the cited Keil reference, Applicant wishes to draw the Examiner's attention to the following. The present application, through the previous PCT application, claims priority back to U.S. Provisional Patent Application Nos. 60/134,342, filed May 14, 1999 and 60/159,665, filed October 15, 1999. Applicant submits that the contents of the subject matter as now claimed, are fully disclosed in these two provisional applications, with the subject matter of relating the customer's age to the serial number(s), computer-readable form for the serial number(s) and the use of credit as a form of payment being added in Applicant's second provisional application at pages 3-4.

The cited Keil reference claims priority (as a continuation-in-part application) to a prior U.S. application (Serial No. 09/334,887, filed June 17, 1999), which in turn claims priority to a prior U.S. Provisional Patent Application (Serial No. 60/089,755, filed June 18, 1998). Accordingly, the immediately preceding application in the Keil chain (of which the present application is a continuation-in-part) was filed after Applicant's first provisional application, such that the subject matter added between the immediate parent Keil application and the presently cited continuation-in-part Keil application does not predate Applicant's first provisional application.

Applicant's comparison of the cited Keil application and its immediate predecessor has found that the features cited by the Examiner in the objections to the present application were clearly not part of the immediately preceding Keil application (Serial No. 09/334,887, filed June 17, 1999). Specifically, the prior Keil application was directed toward a system and method for paying for pre-paid communications services, including cellular telephone activations and air time and pre-paid internet (ISP) access, with the primary goal of avoiding merchant-maintained inventory of pre-printed plastic or paper pre-paid calling cards and associated costs (page 1, lines 12-19). Accordingly, the prior Keil application did not disclose a method for a customer to purchase goods or services from an online merchant, as claimed in the present application.

In addition, nowhere in the preceding Keil application is the preservation of anonymity mentioned. In fact, the prior Keil application states (at page 4, lines 11-13) that:

"Information relating to the customer will be stored on the central database of the system and appropriate authorization and approval information is returned to the POS terminal."

It is also clear that transactions of the prior Keil application are tied to the electronic serial number of the telephone being activated (page 4, last line) and the customer's cellular telephone number (page 7, line 2; page 9, lines 16-17), showing that no customer anonymity was contemplated by the prior Keil application.

The prior Keil application does disclose alternate options for purchases, including pre-paid internet services from an internet service provider (ISP), concert tickets, movie tickets, sporting events, AAA roadside assistance, flowers, and payments for cable companies, phone companies and insurance benefits (page 14, last two paras.).

However, many of these examples are tied to the customer's identity, home address, or automobile, none of which are anonymous:

1. internet access through an internet access provider (ISP) is typically tied to a home telephone number and home address, which are tied to the customer's identity;
2. AAA roadside assistance is typically tied to an automobile, which is tied to the customer's identity by automobile registrations through state authorities;
3. payments for cable companies and phone companies are typically tied to a home address and a home telephone number, respectively, which are tied to the customer's identity; and
4. payments for insurance benefits are typically tied to a home address (for home insurance), and automobile (for automobile insurance) or an individual (for personal insurance benefits), each of which are tied to the customer's identity.

Clearly the prior Keil application did not appreciate this aspect of the present invention. Applicant has also reviewed the first Keil application (Serial No. 60/089,755, filed June 18, 1998) and has similarly not found the disclosure of suitable subject matter for objection to the present claims.

For these reasons, it is submitted that the subject matter cited in the most recent Keil reference for objecting to the present claims was added to the Keil chain of applications after the filing date of Applicant's earliest U.S. provisional application which contains the presently-claimed subject matter. Accordingly, Applicant's disclosure of this subject matter on a priority chain basis actually occurred prior to the Keil disclosure relied upon as the basis for rejection. Therefore, the cited Keil subject matter cannot be

cited for objection to the claimed subject matter, and it is respectfully requested that the current objections based on the Keil reference be withdrawn.

REJECTION UNDER 35 U.S.C. § 103

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Keil (U.S. Patent Appl. Publ. No. 2001/0023415 A1) in view of DiMaria et al. (U.S. Pat. No. 6,148,091). The Examiner states that DiMaria describes accessing personalized identification information and encoded age data stored in at least one machine readable medium on an individual's identification document, such as a driver's license or other official document, to determine whether an individual is of legal age. Applicant respectfully submits that the combination of the Keil and DiMaria references does not yield the present invention, for the following reasons.

It is submitted that the comments and distinctions set forth above about the Keil chain of applications also applies here, such that no information about anonymity or the purchase of internet goods or services was contemplated by the immediately preceding Keil application, such that Applicant's disclosure of these subject matters preceded the relevant disclosures in the Keil chain.

In addition, Applicant submits that the encoding of age data in an official document, as disclosed in DiMaria, is not the same as merely attaching an age-identifier (which itself does not disclose the customer's identity) to a random serial number (which also does not disclose the customer's identity). As stated above, Applicant believes that the addition of information about a customer's age to an otherwise randomly generated serial number does not make the underlying serial number any less random. Instead,

the addition of this information to the serial number maintains confidentiality of the customer's identity, while providing a way to prevent access to a website or decline a purchase based on the user's age.

For these reasons, it is submitted that the combination of the Keil and DiMaria references cannot yield the present invention, as presently claimed.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly addressed. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this response is respectfully requested. Should the Examiner have any questions about this submission, or wish to discuss the application, the present Amendment or the cited references further, the Examiner is invited to telephone the undersigned attorney directly at (248) 641-1239.

Respectfully submitted,

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